



U.S. Serial No. 10/045,949

DFC
LMW

CERTIFICATION OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Step Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: January 31, 2005.

Elena Torres
(Print Name)

Elena Torres
(Signature)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application

Applicant(s): Davis et al.

Serial No.: 10/045,949

Group Art Unit: 1644

Filing Date: January 11, 2002

Examiner: Vandervegt, F P

For: **INTRINSICALLY FLUORESCENT, SELF-MULTIMERIZING
MHC FUSION PROTEINS AND COMPLEXES THEREOF**

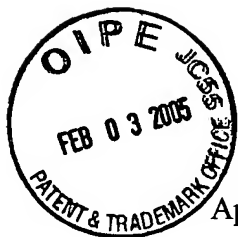
**PETITION UNDER 37 C.F.R. §1.181(a)
TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Abandonment was mailed December 16, 2004, in the above-referenced case, indicating that the application is abandoned in view of Applicant's failure to reply to the Office action mailed May 12, 2004. However, Applicants never received the Office letter mailed May 12, 2004. Applicants hereby petition to withdraw the holding of abandonment based on failure to receive the Office action.

To establish non-receipt of the Office action, Applicants submit herewith a statement from the practitioner stating that the Office action mailed May 12, 2004, was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Also submitted herewith is a copy of the docket record where the non-received Office action would have been entered had it been received.



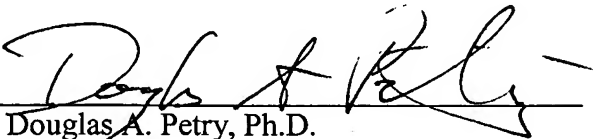
U.S. Serial No. 10/045,949

Applicants believe that no fee is due.

Applicants respectfully request withdrawal of the holding of abandonment of the above-reference application and, further, request that the Office mail a new Office action.

Respectfully submitted,

1/31/05
Date


Douglas A. Petry, Ph.D.
Reg. No. 35,321
Agent for Applicants
Customer No. 26253
Tel: (408) 518-5074
Fax: (408) 954-4122



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application

Applicant(s): Davis et al.

Serial No.: 10/045,949

Group Art Unit: 1644

Filing Date: January 11, 2002

Examiner: Vandervegt, F P

For: **INTRINSICALLY FLUORESCENT, SELF-MULTIMERIZING
MHC FUSION PROTEINS AND COMPLEXES THEREOF**

STATEMENT FROM PRACTITIONER OF NONRECEIPT OF OFFICE ACTION

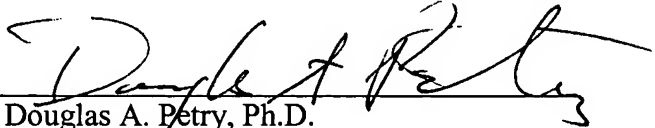
1. I, the undersigned, am the patent practitioner representing Applicants in the prosecution of the above-referenced application.
2. A Notice of Abandonment was mailed December 16, 2004, in the above-referenced case. The Notice indicates that the application is abandoned in view of Applicant's failure to reply to the Office action mailed May 12, 2004.
3. Following receipt of the Notice of Abandonment, I obtained a copy of the Office action mailed May 12, 2004, from the USPTO web site. The Office action mailed May 12, 2004, was a restriction requirement. A shortened statutory period for reply was set to expire one (1) month from the mailing date.
4. I did not receive the Office action mailed May 12, 2004.
5. It is standard practice in our office to record immediately upon receipt all communications related to Office actions, whether received directly from the USPTO or forwarded from outside counsel, in a received-mail log prior to forwarding the communication to the responsible practitioner. The received-mail log indicates the date the mail was received, the date the mail was sent, the type (i.e., mode) of communication (e.g., letter or fax), a description of the mail and the case that it relates to, including the docket number, and the

practitioner handling the case. If an Office action had been received, it would be listed in the received-mail log.

6. I searched the file jacket, the docket record, and the received-mail log. All searches indicated that the Office action mailed May 12, 2004, was not received.
7. Attached hereto as evidence is a copy of the received-mail log spanning the period from the mailing date of the Office action, May 12, 2004, to the end of the one-month statutory period set for response, June 12, 2004. No record of an Office action mailed May 12, 2004, is contained in the received-mail log.
8. Based on the above, I state that I never received the Office action mailed May 12, 2004, in the above-referenced case, and attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received.

Respectfully submitted,

6/31/05
Date


Douglas A. Petry, Ph.D.
Reg. No. 35,321
Agent for Applicants
Customer No. 26253
Tel: (408) 518-5074
Fax: (408) 954-4122

Form to:	Date Recd	Date Sent	From	Type	Items	Form to:
SLO	5/10/04	4/24/04	D. H. B. B. B.	Inv.	#s 0101; 0102; 0141; 0174; 0217	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-4875.01 - Annuity paid	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-5870 - Prior Art Checklist	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-5871 - Signature of Declaration request	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-5551.01 Notification Ltr. to outside Counsel (Canadian)	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-5551.70 - PCT - Notice of Recordation from Semana to Clontech	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-5551 - Notice of Recordation from Semana to Clontech	SLO
SLO	5/10/04	5/6/04	B. Field	Ltr.	P-5107.01 - Notice of Status Inquiry to USPTO	SLO
SLO	5/10/04	5/5/04	USPTO	Ltr.	P-4744 - Notice of Allowance + Issue Fee payment request	DAP
SLO	5/11/04	5/3/04	USPTO	Ltr.	P-4296 P1.01 - Office Action Summary - Claims pending restriction	DAP
SLO	5/12/04	4/28/04	B. Field	Ltr.	P-5870.12 - Notice of entering JP National Phase	SLO
SLO	5/12/04	4/30/04	B. Field	Ltr.	P-5233.25 - Receipt/Notification of OA received from EPO.	SLO
SLO	5/12/04	5/5/04	B. Field	Ltr.	P-4853.08 - Annuity payment due in NZeland.	SLO
SLO	5/12/04	5/5/04	B. Field	Ltr.	P-4853.01 - Annuity payment due in Canada	SLO
SLO	5/12/04	5/5/04	B. Field	Ltr.	P-4853.25 - Annuity payment due in EP	SLO
SLO	5/12/04	5/5/04	B. Field	Ltr.	P-4853.32 - Annuity payment due in Norway	SLO
SLO	5/13/04	5/6/04	B. Field	Ltr.	P-5107.01 - Status Inquiry to USPTO (Copy rec'd fr. Judi W)	SLO
DAP	5/13/04	5/6/04	USPTO	Ltr.	P-6021 - Receipt acknowledgment of reg. Patent Applic.	SLO
DAP	5/13/04	5/10/04	B. Field	Ltr.	P-5496.25 - Upcoming Annuity payment due 7/13/04	SLO
DAP	5/13/04	5/10/04	B. Field	Ltr.	P-5496.01 - Upcoming Annuity payment due 7/13/04	SLO
DAP	5/13/04	5/10/04	JW/CPI	Inv.	Maintenance Fees upcoming 10/10/04 - 12/31/04 (4Qtr.)	DAP
DAP	5/13/04	5/6/04	von Kneuen	Ltr.	P-5676.25 - Patent applic. published in EP w/ 1 PER	DAP
DAP	5/13/04	5/6/04	von Kneuen	Ltr.	P-2305.25 - Renewal fees not paid	DAP
DAP	5/13/04	5/6/04	JW/CPI	Inv.	Maintenance Fees upcoming 10/10/04 - 12/31/04 (4Qtr.)	DAP
DAP	5/14/04	5/11/04	Schmeck	Ltr.	Status Reports (monthly activity)	DAP
DAP	5/14/04	5/11/04	Schmeck	Ltr.	Status Reports (monthly activity)	DAP
SLO	5/14/04	5/6/04	B. Field	Inv.	Service through April 2004	SLO
SLO	5/14/04	5/7/04	D. H. B. B. B.	Ltr.	Clinical Trial Agreements fr.	DAP
SLO	5/14/04	5/3/04	von Kneuen	Ltr.	P-5674.25 - 1 PER rec'd	SLO
DAP	5/17/04	5/12/04	B. Field	Ltr.	P-5632 - Util. Patent Applic. filed w/ USPTO	SLO
DAP	5/17/04	5/12/04	B. Field	Ltr.	P-5632.12 - New JP Nat'l Phase filing - inst. to foreign counsel	SLO
SLO	5/17/04	5/12/04	B. Field	Ltr.	P-5631.12 - New JP Nat'l Phase filing - inst. to foreign counsel	SLO
SLO	5/17/04	5/12/04	B. Field	Ltr.	P-5632.07 - New Aus. Nat'l Phase filing - inst. to foreign counsel	SLO
SLO	5/17/04	5/12/04	B. Field	Ltr.	P-5631.25 - New EP. Nat'l Phase filing - inst. to foreign counsel	SLO
SLO	5/17/04	5/12/04	B. Field	Ltr.	P-5632.25 - New EP. Nat'l Phase filing - inst. to foreign counsel	SLO
DAP	5/17/04	5/12/04	B. Field	Ltr.	P-5631.01 - New Canadian Nat'l Phase filing - inst. to foreign counsel	SLO
DAP	5/17/04	5/12/04	B. Field	Ltr.	P-5632.01 - New Canadian Nat'l Phase filing - inst. to foreign counsel	SLO
DAP	5/17/04	5/12/04	B. Field	Ltr.	P-5631.07 - New Aus. Nat'l Phase filing - inst. to foreign counsel	SLO
SLO	5/17/04	5/13/04	B. Field	Ltr.	P-4877 - Response to Notice to file Missing Parts	SLO
DAP	5/17/04	5/13/04	B. Field	Ltr.	P-5631 - Util. Patent Applic. filed w/ USPTO	SLO
DAP	5/17/04	5/13/04	B. Field	Ltr.	P-5496.12 - JP. Patent Applic. - POA filed	SLO
DAP	5/17/04	5/13/04	B. Field	Ltr.	P-4872 - Reg. for examination in Israel	SLO
DAP	5/19/04	5/12/04	D. Schmeck	Ltr.	P-4914.01.12 - JP Counsel's recommendations to OA rec'd	DAP
DAP	5/25/04				P-5479.25 - Notice of entering EP Nat'l Phase filing	SLO
DAP	5/25/04				SIGNATURE READ AND UNDERSTOOD P-3016.25 - Notice of entering EP Nat'l Phase filing	SLO

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PROJECT NAME _____

NOTEBOOK NO. _____

Date	Date	From	Type	Item	For To:
Rec'd	Sent				
5/25/04	5/13	USPTO	PC	P-5684 - Return Receipt Postcard	DP
5/26/04	5/17	B. Field	Ltr.	P-63640 Official Filing Receipt	SL
5/26/04	5/17	B. Field	Ltr.	P-5631.07 Australian Nat'l Phase Pat. Applic. Filing	SL
5/26/04	5/17	B. Field	Ltr.	P-5631.25 EP Nat'l Phase Pat. Applic. Filing	SL
5/27/04	5/17	B. Field	Ltr.	P-5631.17 JP Nat'l Phase Pat. Applic. Filing	SL
5/27/04	5/17	B. Field	Ltr.	P-5632.01 CA Nat'l Phase Pat. Applic. Filing	SL
5/27/04	5/17	B. Field	Ltr.	P-4872-15 Nat'l Phase Pat. Applic. Filing	DP
5/28/04	5/25	A. Hunt	Inv.	KNA Technology	SL
5/28/04	5/25	B. Field	Ltr.	P-5491.25 - EP Patent Applic. Filing - instructions	SL
5/28/04	5/24	B. Field	Ltr.	P-5865.01 - CANADIAN Patent Applic. Filing - instructions	SL
5/28/04	5/24	B. Field	Ltr.	P-5551.17 - JP Patent Applic. Filing notification	SL
6/2/04	5/26	B. Field	Ltr.	P-5632.70 Australian National Phase Confirm.	SL
6/2/04	5/26	B. Field	Ltr.	P-4847 Maint. Fee Statement: confirm. payment	SL
6/2/04	5/27	B. Field	Ltr.	P-4884/1/PI/1 COPY OF FILED SUPP. IDS with	SL
6/2/04	5/27	B. Field	Ltr.	P-5488 Copy of Filed Status Inquiry with	SL
6/2/04	5/26	B. Field	Ltr.	P-4875.07 Austr. Annuit. confirmed payment	SL
6/2/04	5/24	B. Field	Ltr.	P-5551.12 JAP National phase confirmed, official filing receipt, POF ^{enc'd}	SL
6/2/04	5/24	B. Field	Ltr.	P-5865.01 letter to Foreign Associate to receive application	SL
6/2/04	5/24	B. Field	Ltr.	P-5491 letter to Foreign Associate to proceed w/applications	SL
6/2/04	5/25	B. Field	Ltr.	P-4877.1 Copy of Office Action	SL
6/2/04	5/27	B. Field	Ltr.	P-4409/IMA/1/PI/1 Ltr re: IDS sent to Foreign Associate	SL
6/2/04	5/27	B. Field	Ltr.	P-5632.70 Canada National phase confirm.	SL
6/2/04	5/27	B. Field	Ltr.	P-5631.70 Australia National phase confirm.	SL
6/2/04	5/27	B. Field	Ltr.	P-5631.70 Canada National Phase confirm.	SL
6/3/04	5/26	B. Field	Ltr.	P-5632.70 Australia National Phase confirm.	SL
6/3/04	5/26	B. Field	Ltr.	P-4847 Maint. Fee Statement. confirm payment	SL
6/3/04	5/27	USPTO	Ltr.	P-5358.70 SEARCH REPORT	SL
6/3/04	5/24	Peter Hess Robert Wilt	Ltr.	P-3016.25 Annuit. not paid, application abandoned	SL
6/4/04	6/2	Schneck	Inv.	P-4519 Maint. Fee Reminder & Invoice for maint. fee	SL
6/4/04	6/2	Schneck	Inv.	P-4415 Maint. Fee Reminder & Invoice for maint. fee	SL
6/4/04	6/2	Schneck	Inv.	P-4218.25 Prior art, cost & EPO granted decision to client	SL
6/4/04	5/21	BNA Books	Inv.	Patent & trademark, copyright Law Book	SL
6/4/04	3/4	J.H. University	Inv.	Reimbursements for Maint. fee payments	SL
6/4/04	6/2	Schneck	Inv.	P-4414/PI/12 Transmit final Jap. OA to client	SL
6/4/04	6/2	Schneck	Inv.	P-4415 Amend. Sup. Claims	SL
6/7/04	5/19	B. Field	Ltr.	P-4853.08 Application was granted in New Zealand	SL
6/7/04	4/26	B. Field	Ltr.	P-4853 Letter Patent from Foreign Associate in New Zealand	SL
6/7/04	5/20	B. Field	Ltr.	P-4484/PI/07 Copy of Action from USPTO	SL
6/7/04	5/20	B. Field	Ltr.	P-5410.70 Bibliographic details to be published in Eur. Pat. Bulletin	SL
6/7/04	5/20	B. Field	Ltr.	P-5632.70 Ch 2 not filed yet, Int. Prelim. Exam not available in app.	SL
6/7/04	5/20	B. Field	Ltr.	P-5632.70 Invent. info forwarded to Foreign Associates	SL
6/7/04	5/20	B. Field	Ltr.	P-5631.70 Ch 2 not filed yet, Int. Prelim. Exam not available in app.	SL
6/7/04	5/19	B. Field	Ltr.	P-5488.01 Copy of Recorded Assignment to Foreign Associate	SL

SIGNATURE _____

READ AND UNDERSTOOD _____

DATE _____
DATE _____

20

Form To:	Date	Date	From	Type	Item	Form To:
DP	6/7/04	5/12	B. Field	Ltr.	P-5631.20 Instructions to foreign associate to file app in Russia by 6/19/04	SO
SLO	6/7/04	5/12	B. Field	Ltr.	P-5632.20 Inst. to foreign associates to file app in Russia by 6/19/04	SO
SLO	6/7/04	5/27	B. Field	Ltr.	P-5870.70 Inst. to foreign associates to proceed w/claims & pay ^{Aug 21/05} Aug 21/05	SO
SLO	6/7/04	5/27	B. Field	Ltr.	CLON-033AM Inst. to foreign associate to proceed w/amendment ^{Supplies for} Aug 21/05	SO
SLO	6/9/04	6/8	USPTO	Ltr.	P-5479 ISSUE Notification	DAP
SLO	6/10/04	6/8	Schneck	Ltr.	P-4910.25 ^{grant & printing fees to be paid and filed German & French.} translation of patent claims by August 31 2004	DAP
SLO	6/11/04	6/10	G. Aragonis	INV	Stanford/BDS Agreement	DAP
DP	6/14/04	6/7	Von Krieser Seitings Weimer	Ltr.	P-5674.25 Request for Examination can be filed by 11/12/04	SLO
SLO	6/16/04	6/11	B. Field	Ltr.	P-5940.70 Official Canadian Filing Receipt	SLO
SLO	6/16/04	6/14	B. Field	Ltr.	P-4867-PID Copy of filed Amendment	SLO
SLO	6/16/04	6/8	B. Field	Ltr.	P-5870.70 ^{Appl. will be published in European Bulletin 7/1/04; to request} protection in Hong Kong due date is 11/10/05	SLO
SLO	6/16/04	6/17	B. Field	Ltr.	P-4884 office action with restriction req. Program	SLO
SLO	6/16/04	6/14	Schneck	Ltr.	P-4914.P1.12 Ltr to JP counsel re: claims, cancelling & redrafting	DAP
SLO	6/16/04	6/11	B. Field	Ltr.	P-6209 Instruction sheet for pow. to be converted and foreign Filed	SLO
SLO	6/16/04	6/12	^{Strips Research} Institute	Inv	P-2438 Japanese Annuity Fee s	DAP
SLO	6/16/04	5/12	B. Field	Ltr.	P-5632.20 Instr. Foreign counsel to file app. in Russia	SLO
SLO	6/16/04	5/27	B. Field	Ltr.	P-5870.25 Inst. Foreign counsel to proceed to pay excess claims	SLO
SLO	6/16/04	5/12	B. Field	Ltr.	P-5632.20 Inst. Foreign counsel to file app. in Russia	SLO
SLO	6/17/04	6/15	Schneck	Ltr.	P-4910.25 foreign counsel wants POA to be signed	DAP
DAP	6/17/04	6/11	Von Krieser Seitings Weimer	Ltr.	P-3353.25 French translation of European Patent that was publ.	DAP
SLO	6/21/04	6/18	B. Field	Ltr.	P-5870.70 Application to be published in European Patent Bulletin	SLO
SLO	6/21/04	6/16	B. Field	Ltr.	P-5870.12 ^{Confirmed National Phase in 11/2/04, enclosed POA for signatures} Examination to be requested by 10/10/05	SLO
DAP	6/21/04	6/16	B. Field	Ltr.	P-4853.25 copy of Associates letter and office action due 6/16/04	SLO
SLO	6/21/04	6/15	B. Field	Ltr.	P-5871 copy of Filing Receipt & Notice of Missing Parts	SLO
SLO	6/21/04	6/15	B. Field	Ltr.	P-5109 copy of communication from PTO due 7/1/04	SLO
SLO	6/21/04	6/15	B. Field	Ltr.	P-5114 copy of communication from PTO due 6/26/04	SLO
DAP	6/21/04	6/19	B. Field	Ltr.	P-4867/PID copy of Amendment filed w/ USPTO 6/9/04	SLO
DAP	6/21/04	6/11	B. Field	Ltr.	P-5490.01 copy of official filing Receipt.	SLO
DAP	6/21/04	6/15	B. Field	Ltr.	P-4825 copy of Maintenance Fee Statement	SLO
DAP	6/21/04	6/16	B. Field	Ltr.	P-5870.20 conf. of Russia national phase, examination due 10/20/05	SLO
DAP	6/21/04	6/15	B. Field	Ltr.	P-4877.B copy of updated Filing Receipt	SLO
DAP	6/21/04	6/14	B. Field	Ltr.	P-4872 copy of Maintenance Fee Statement	SLO
DAP	6/21/04	6/14	Von Krieser Seitings Weimer	Ltr.	P-5306.25 ^{Entered European National phase, all designated fees for EPC paid for} renewal fee due 8/31/04	DAP
DAP	6/21/04	6/16	B. Field	Ltr.	P-4867.25 Euro annuities for European Patent due 8/18/02 ^{Inst. by 7/12/04}	SLO
DAP	6/23/04	6/17	B. Field	Ltr.	P-5107.P1 copy of status letter from USPTO	SLO
DAP	6/23/04	6/10	CRA	Ltr.	P-1426.25 reminder of nonpayment of annuity - 20 chose to abandon	DAP
DAP	6/23/04	6/17	B. Field	Ltr.	P-5490.20 Sent Foreign counsel certified copy of Assignment	SLO
DAP	6/23/04	6/24	Schneck	Ltr.	P-4937.12 grant was issued 6/23/04 & needs instr. to pay the fee	DAP
DAP	6/23/04	6/14	KVA	Inv.	Reimbursement for patenting expenses	DAP
DAP	6/23/04	6/18	BNA BOOKS	Inv.	Patent T.M.K. & Copyright Law '04	DAP
DAP	6/23/04	6/22	USPTO	Ltr.	P-5308.70 Notification of receipt of Demand	DAP
DAP	6/23/04	6/25	G. Aragonis	Inv.	Licensing agreement m/vace for Stanford	DAP
DAP	7/1/04	6/24	B. Field	Ltr.	P-5631.20 File was transferred Dr. Welch from Bozicev et.	SLO

SIGNATURE _____

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DATE _____

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